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11 | *Attorneys for Defendant Google Inc.*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

15 BEVERLY LEVINE, PHILLIP HALL, ERIN  
16 HILLMAN, THEODORE SPRADLEY;  
individuals, on behalf of themselves and others  
similarly situated.

No. C 11-02157- JSW

**JOINT CASE MANAGEMENT  
STATEMENT [AMENDED]**

Plaintiffs,

No. C 11-02157- JSW

19 v.  
20 GOOGLE INC., a Delaware Corporation;  
Defendant

22 JULIANN KING, individually and on behalf of a  
class of similarly situated individuals,

No. 11-cv-02167-JSW

11

24 GOOGLE INC.,  
25 Defendants.

## JOINT CASE MANAGEMENT STATEMENT

CASE NO. 11-CV-02157  
CASE NO. 11-CV-02167  
CASE NO. 11-CV-02230  
CASE NO. 11-CV-02427

1 MARITSA URIAS and STAN HINES, on behalf  
 2 of themselves and all others similarly situated,

No. 11-cv-02230-JSW

3 v.

4 GOOGLE INC.,  
 5 Defendant.

6 TRACEY LIPTON, individually and on behalf of  
 7 all others similarly situated,

Case No. 11-cv-02427-JSW

8 v.

9 GOOGLE INC.,  
 10 Defendant.

11 Pursuant to this Court's Order Setting Case Management Conference & Requiring Joint  
 12 Case Management Conference Statement (Dkt. Nos. 8,), L.R. 16-9, and the Standing Order for  
 13 All Judges of the Northern District of California, *Contents of Joint Case Management Statement*,  
 14 Plaintiffs Beverly Levine, Phillip Hall, Erin Hillman, Theodore Spradley, Juliann King, Maritsa  
 15 Urias, Stan Hines, and Tracey Lipton, and Defendant Google Inc. jointly submit the following  
 16 Joint Case Management Statement.

17 1. **Jurisdiction and Service:** The complaints in *Levine, et al., v. Google Inc.*, Case  
 18 No. 11-cv-02157 (“Levine”), *King v. Google Inc., et al.*, Case No. 11-cv-02167 (“King”), *Urias,*  
 19 *et al. v. Google Inc.*, Case No. 11-cv-02230 (“Urias”), and *Lipton v. Google Inc.*, Case No. 11-  
 20 cv-02157 (“Lipton”) (collectively the “Related Actions”) assert federal question subject matter  
 21 jurisdiction based upon alleged violations of the Computer Fraud and Abuse Act, 18 U.S.C.  
 22 § 1030 (“CFAA”), and in some instances the Electronic Communications Privacy Act, 18 U.S.C.  
 23 § 2510 (“ECPA”). While Defendants dispute the application of the statutes invoked to the facts  
 24 alleged, they do not contest subject matter jurisdiction exists due to the federal claims asserted.  
 25 All Defendants have been served.

1           2.       **Facts:** The Related Actions share common factual allegations. They all concern:  
 2       (1) Google's Android mobile device operating system; (2) the information that devices running  
 3       Android or that applications downloaded to those devices collect, store, or transfer; and (3) the  
 4       propriety of Defendants' alleged handling of that information. Other factual issues will depend  
 5       upon the allegations and claims asserted in a consolidated complaint.

6           3.       **Legal Issues:** The legal issues involved in these cases will depend upon the  
 7       claims included by plaintiffs in the anticipated consolidated complaint. The parties anticipate  
 8       that the legal issues may include standing, applicability of the CFAA and the ECPA to the facts  
 9       alleged, and whether plaintiffs have stated a claim for relief.

10          4.       **Motions:** Currently pending before the Judicial Panel for Multi-District  
 11       Litigation ("JPML"), MDL Docket No. 2264, is Google's Motion to Transfer Actions to the  
 12       United States District Court for the Northern District of California pursuant to 28 U.S.C. § 1407  
 13       for Coordinated or Consolidated Pretrial Proceedings, seeking to transfer to this Court all similar  
 14       cases pending in other jurisdictions, as well as any tag-along actions, for consolidated pretrial  
 15       proceedings together with the Related Actions ("Google's Motion to Transfer"). All parties to  
 16       these related actions support Google's Motion to Transfer, which will be heard on July 28, 2011  
 17       before the JPML. The parties expect a decision to issue a few weeks thereafter.

18           In *Levine*, Google filed a motion to relate *Levine* with *King*, *Urias*, and *Lipton*, which  
 19       motion was granted by this Court on June 14, 2011 (Dkt. 15). On July 1, 2011, non-party  
 20       Pandora Media Inc. filed a motion to relate the Related Actions with an action pending against  
 21       Pandora in the Oakland Division of the Northern District of California. (Dkt. 16). On July 5,  
 22       2011, the plaintiff in the Pandora action filed an opposition to Pandora's motion to relate. (Dkt.  
 23       17). There are no other motions pending in the Related Actions.

24           Pursuant to the pending Stipulation and Proposed Order filed by Google and Plaintiffs on  
 25       June 8, 2011 (Dkt. 12), after the JPML issues its order, Plaintiffs intend to use their best efforts  
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1 to self-organize and recommend to the Court counsel to serve as Interim Class Counsel.  
 2 Following the appointment of interim lead counsel, Plaintiffs will file a consolidated complaint.  
 3 Depending upon the allegations and claims asserted, Defendants anticipate that they may file a  
 4 motion to dismiss.

5       5.       **Amendment of Pleadings:** The parties anticipate that Plaintiffs will file an  
 6 amended pleading following the consolidation of the Related Cases, appointment of Interim  
 7 Class Counsel, and propose that such amended complaint be filed within 30 days of the Court's  
 8 Order appointing Interim Class Counsel.

9       6.       **Evidence Preservation:** All parties have taken reasonable steps to preserve  
 10 evidence relevant to the issues reasonably evident in these Related Actions.

11       7.       **Disclosures:** In light of the procedural posture of the Related Actions, including  
 12 Google's pending Motion to Transfer, and the anticipation that the current complaints will be  
 13 superseded by a consolidated complaint following consolidation of the actions and appointment  
 14 of Interim Class Counsel, the parties have not yet exchanged Initial Disclosures. Further, the  
 15 parties have proposed to the Court that their obligation to do so be suspended until after the  
 16 JPML issues its order on Google's Motion to Transfer and the parties have agreed upon a joint  
 17 case management order with proposed deadlines for compliance, which they submitted to the  
 18 Court. *See* Dkt. 12.

19       8.       **Discovery:** No discovery has been served to date, and the parties have agreed to  
 20 suspend, and requested that the Court enter an order suspending all discovery until after the  
 21 JPML issues its order on Google's Motion to Transfer and the parties have agreed upon a joint  
 22 case management order with proposed deadlines for compliance, which they submitted to the  
 23 Court. *See* Dkt. 12.

24       9.       **Class Actions:** These cases are putative class actions. The parties agree that a  
 25 schedule for addressing class certification briefing in the event the anticipated consolidated  
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1 complaint survives any motion to dismiss, should be part of a joint case management order  
 2 submitted for approval following appointment of Interim Class Counsel and the filing of the  
 3 anticipated consolidated complaint.

4       10.    **Related Cases:** In addition to these four actions, which the Court has already  
 5 found to be related, the parties believe that at least the following cases pending in other  
 6 jurisdictions, and which are the subject of Google's Motion to Transfer before the JPML are  
 7 related:

8           a.    *Brown. v. Google Inc*, MIED-11-cv-11867  
 9           b.    *Pessano v. Google Inc.*, FLMD-11-cv-01026  
 10          c.    *Jefferys v. Google Inc.*, FLSD-11-cv-80676

11       11.    **Relief:** Plaintiffs seek certification of a nationwide class of Android users;  
 12 permanent injunction against continued release of unique user identifying information;  
 13 compensatory damages sustained by Plaintiffs and members of the class; restitution and/or  
 14 disgorgement of monies unjustly received as a result of unlawful conduct; statutory and punitive  
 15 damages; pre- and post-judgment interest; attorneys' fees and expenses.

16       12.    **Settlement and ADR:** No ADR efforts have occurred, and the parties believe  
 17 that determining the best means and timing of such efforts is premature until at least after the  
 18 appointment of Interim Class Counsel and the anticipated filing of a consolidated complaint.

19       13.    **Consent to Magistrate Judge For All Purposes:** The parties do not consent to a  
 20 magistrate judge for all purposes.

21       14.    **Other References:** The parties do not believe the cases are suitable for binding  
 22 arbitration, or that appointment of a special master would be appropriate at this time. As set  
 23 forth above, these actions are among the cases that are the subject of Google's Motion to  
 24 Transfer pending before the JPML.

1       15.    **Narrowing of Issues:** Depending upon the allegations and claims ultimately  
 2 asserted in the anticipated consolidated complaint, Defendants expect that the case may be  
 3 narrowed through a motion to dismiss, or through the discovery and class certification schedules  
 4 in the event the action proceeds past the pleading stage. The parties agree that determining the  
 5 proper scope and timing of discovery should be postponed until at least after appointment of  
 6 Interim Class Counsel and the filing of the anticipated consolidated complaint.

7       16.    **Expedited Schedule:** This case is not of the type that can be handled on an  
 8 expedited basis with streamlined procedures.

9       17.    **Scheduling:** The parties request that they be permitted to submit to the Court a  
 10 proposed joint case management order with proposed deadlines for compliance within thirty days  
 11 of any denial of Defendants' anticipated motion to dismiss following the filing of a consolidated  
 12 complaint, or, if no such motion is filed, within 30 days of the due date for Defendants' answer  
 13 to the consolidated complaint.

14       18.    **Trial:** Plaintiffs have requested trial by jury as to at least some of their claims; it  
 15 is not yet possible to estimate the length of the trial.

16       19.    **Disclosure of Non-party Interested Entities and Persons:** To the extent they  
 17 have not already filed a "Certification of Interested Entities or Persons" as required by Civil  
 18 Local Rule 3-16, the parties have done so concurrently with this statement. Other than putative  
 19 class members and parties in the related cases, the parties are not aware of any other persons,  
 20 firms, partnerships, corporations (including parent corporations) or other entities known by the  
 21 party to have either: (i) a financial interest in the subject matter in controversy or in a party to  
 22 the proceeding; or (ii) any other kind of interest that could be substantially affected by the  
 23 outcome of the proceeding.

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1 Pursuant to the above statement, the parties stipulate to and request that the Court enter a  
2 Case Management Order No. 1 providing:

- 3 1. After the JPML issues its order on Google's Motion to Transfer, Plaintiffs shall use  
4 their best efforts to self-organize and recommend to the Court counsel to serve as  
5 Interim Class Counsel under FRCP 23(g). The recommendation for lead counsel  
6 obtained by self-organizing shall be submitted to the Court within ten (10) days of  
7 the issuance by the JPML of its order on Google's Motion to Transfer. Any  
8 opposition to the recommendation shall be filed and served no later than fourteen  
9 (14) days after the filing of the recommendation with the Court and any reply shall  
10 be filed no later than 7 days after the opposition. In all respects, the filings shall  
11 comply with Local Rule 7.1, *et al.*
- 12 2. No defendant shall have an obligation to answer or otherwise respond to any  
13 complaint in any of the Related Actions until: (1) the JPML issues its order on  
14 Google's Motion to Transfer, (2) plaintiffs have prepared and submitted to the  
15 Court for filing a consolidated complaint, and (3) the parties have agreed upon and  
16 the Court has endorsed a schedule for Defendants' responses to the consolidated  
17 Complaint.
- 18 3. The parties' discovery and disclosure obligations under the Federal Rules of Civil  
19 Procedure shall be suspended until after the JPML issues its order on Google's  
20 Motion to Transfer and the parties have agreed upon and the Court has endorsed a  
21 joint case management order with proposed deadlines for compliance.
- 22 4. The parties shall submit to the Court a proposed discovery plan pursuant to Fed. R.  
23 Civ. P. 26(f) and a joint case management order with proposed dates for discovery  
24 cutoff, experts, hearing of dispositive motions, pretrial conference and trial, within  
25 thirty days of any denial of Defendants' anticipated motion to dismiss following the  
26 filing of a consolidated complaint, or, if no such motion is filed, within 30 days of  
the due date for Defendants' answer to the consolidated complaint.

1 Respectfully submitted,

2 DATED: July 28, 2011

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20 By: /s/ Michael H. Rubin  
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23 DATED: July 28, 2011

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1 **ECF CERTIFICATION**

2 I, Michael H. Rubin, am the ECF User whose identification and password are being used  
3 to file this JOINT CASE MANAGEMENT STATEMENT. I hereby attest that William Audet  
4 concurred in this filing.

5 Dated: July 28, 2011

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

7 By: /s/ Michael H. Rubin  
8 Michael H. Rubin

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JOINT CASE MANAGEMENT STATEMENT

-11-

CASE No. 11-cv-02157  
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